

FILED

FEB 05 2001

CLERK STEUBEN CIRCUIT COURT

Debra Arnett

IN THE

SUPREME COURT OF INDIANA



IN THE MATTER OF)

APPROVAL OF)

LOCAL RULES FOR)

STEUBEN COUNTY)

) Case No. 76S00-9507-MS-824

**ORDER APPROVING AMENDED LOCAL RULES IN
STEUBEN COUNTY COURTS**

The judges of the Steuben Circuit and Superior Courts have forwarded an Amendment, dated September 14, 2000, to *Joint Local Rule Regarding Assignment of Criminal Cases*, pursuant to Ind.Criminal Rule 2.2, regarding the assignment and reassignment of felony and misdemeanor cases in Steuben County. The amendment provides that all misdemeanor cases shall be filed in the Steuben Superior Court to offset the workload in Steuben Circuit Court resulting from all juvenile cases being filed there, except where an active case already pends against the individual charged or where the prosecuting attorney certifies to the clerk that the new case is a companion case. In such instances, the new case will be filed in the court where the case is pending against the same individual is filed or where the companion case is filed. Said amendment is attached to this Order as Attachment A. In addition, the amendment provides that in the event a judge is granted a disqualification or where a recusal is entered, the case shall be assigned in a manner consistent with the District 3 plan adopted pursuant to this Court's order for weighted caseload redistribution. Said District 3 plan is attached hereto as Exhibit B.

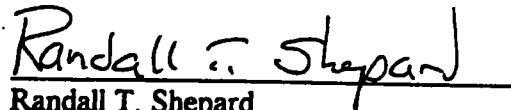
Upon examination of the local rules, this Court finds that the amendment to the local criminal assignment rule should be approved.

IT IS, THEREFORE, ORDERED by this Court that the proposed amendment to *Joint Local Rule Regarding Assignment of Criminal Cases*, such amendment promulgated on September 14, 2000, by the judges of the Steuben Circuit and Superior Courts, and set forth as an attachment to this Order, is now approved, effective September 14, 2000.

The Clerk of this Court is directed to forward a copy of this Order to the judge of the Steuben Circuit Court, to the judge of the Steuben Superior Court and to the Clerk of the Steuben Circuit and Superior Courts.

The Clerk of the Steuben Circuit and Superior Courts is directed to place a copy of this Order in the Record of Judgments and Orders for such courts and post this Order for public examination.

DONE at Indianapolis, Indiana, this 31st day of January, 2001.


Randall T. Shepard
Chief Justice of Indiana

DISTRICT 3 CASELOAD DISTRIBUTION RULE

WHEREFORE, on July 16, 1999, the Supreme Court of Indiana issued an Order for Development of Local Caseload Plans.

WHEREFORE, on September 2, 1999, in an effort to comply with the Order of the Supreme Court, the majority of judges in District 3 met to develop an equitable caseload management plan to diminish caseload disparity among the courts of said District.

NOW THEREFORE, by unanimous vote of the assembled judges, the following Uniform Local Rule is submitted for adoption by each county located in District 3.

DEFINITIONS

An "Over-Utilized County," according to the most recent Weighted Caseload Measure (WCLM) is a county in which the judicial officers are utilized at greater than the statewide average.

An "Under-Utilized County," according to the most recent WCLM, is a county in which the judicial officers are utilized at twenty-six (26) or more percentage points below the statewide average.

An "Other County," according to the most recent WCLM, is a county in which the judicial officers are utilized from twenty-five (25) percentage points below to the statewide average.

RULE

1. Whenever selection of a special judge is required under Trial Rule 76, Trial Rule 79(H) or any Local Rule adopted hereunder, this shall be the exclusive method for selection of

said special judge.

2. In an "Over-Utilized County," special judges shall be selected exclusively from a list of judicial officers presiding in courts in "Under Utilized Counties." To fairly and evenly distribute these assignments and to address geographic considerations, appointment of special judges in "Over-Utilized Counties, based upon the 1998 WCLM, shall be as follows:

- a. Special judges serving Allen County shall be selected from the nine(9) judicial officers sitting in Adams, LaGrange, Steuben and Wells counties;
- b. Special judges serving DeKalb County shall be selected from the five(5) judicial officers sitting in LaGrange and Steuben counties;
- c. Special judges serving Huntington County shall be selected from the four(4) judicial officers sitting in Adams and Wells counties.

3. In an "Under-Utilized County," special judges shall be selected exclusively from a list of judicial officers sitting in other "Under-Utilized Counties." To fairly and evenly distribute these assignments and to address geographic considerations, appointment of special judges in "Under-Utilized Counties," based upon the 1998 WCLM, shall be as follows:

- a. Special judges serving Adams County shall be selected from the other judicial officer sitting in Adams County and the two(2) judicial officers sitting in Wells County;
- b. Special judges serving LaGrange County shall be selected from the other judicial officer sitting in LaGrange County and the three(3) judicial officers sitting in Steuben County;
- c. Special judges serving Steuben County shall be selected from the other judicial officers sitting in Steuben County and the two(2) judicial

officers sitting in LaGrange County;

- d. Special judges serving Wells County shall be selected from the other judicial officer sitting in Wells County and the two(2) judicial officers sitting in Adams County.

4. In an "Other County," special judges will be selected from counties which are similarly situated. To fairly and evenly distribute these assignments and to address geographic considerations, appointment of special judges, based upon the 1998 WCLM, shall be as follows:

- a. Special judges serving Noble County shall be selected from the other judicial officers sitting in Noble County and the two(2) judicial officers sitting in Whitley County;
- b. Special judges serving Whitley County shall be selected from the other judicial officer sitting in Whitley County and the three(3) judicial officers sitting in Noble County.

5. Each judge in every court of District 3 shall maintain a list of judges available to serve as special judge in his or her court. The list shall remain confidential to the judge and his or her designated staff. The method for selection of a special judge from the list shall be sequential, that is, from top to bottom, until each judicial officer has been selected. No judicial officer appearing on the list shall be selected more than once until all judicial officers have been selected.

6. The special judge, selected hereunder, shall have the sole discretion to transfer the proceeding under Trial Rule 79 (M) .

- 7. By requesting a special judge, the parties specifically waive:

- 1) Selection of a special judge under Trial Rule 79(D), Trial Rule 79(E) and Trial Rule 79(F), and
- 2) Any objection to the transfer of the proceeding under Trial Rule 79(M) if the special judge should order same.

8. Each special judge, who receives a case hereunder, shall maintain a statistical record of the number, case type and disposition of each case received to quantify the additional caseload and shall report same to the Division of State Court Administration on a quarterly basis.

9. Each judge, who assigns a special judge hereunder, shall maintain a statistical record of the number and case type of each case assigned and shall report same to the Division of State Court Administration on a quarterly basis.

10. This rule applies only to selection of special judges in civil matters. It does not apply to the selection of special judges in criminal and juvenile matters.

11. The judges in District 3 shall meet on or before May 1 of each year to review the WCLM from the previous year, shall meet during the month of September in each year to review the impact of this Rule and, no later than October 1 of each year, shall adopt a rule for the ensuing year.

12. All previous local rules adopted by the judge in District 3 regarding selection of special judges in civil matters are repealed to the extent that they are inconsistent with this Rule.

13. This Rule shall be effective as of January 1, 2000.

This proposed Order is hereby approved and signed by:

Allen N. Wheat

Allen N. Wheat, Judge
Steuben Circuit Court

William C. Fee

William C. Fee, Judge
Steuben Superior Court

SEP 15 2000

Chris Bickel

JOINT LOCAL RULE REGARDING ASSIGNMENT OF CRIMINAL CASES

Pursuant to Rule 2.2 of the Indiana Rules of Criminal Procedure, the courts of record in Steuben County, namely, the Steuben Circuit Court and the Steuben Superior Court, now adopt the following local rule for assignment of all felony and misdemeanor cases, to-wit:

I. All felony cases shall be filed on the basis of random selection, except:

1) Where, in consideration of the workload exception provided by Indiana Rules of Criminal Procedure 2.2(B):

- a) an active case or cases exist against the individual to be charged, the new case shall be filed in that court, or
- b) The prosecuting attorney certifies to the clerk that new filings are "companion cases". For purposes of this order, "companion cases" shall denote cases involving co-defendants or cases arising out of the same or closely related transaction or occurrence or in any other instance where consideration of the case with others in the same forum is in the interests of judicial economy.

2) Where a conflict of interest exists, or other good cause is shown, the presiding judge of either court may permit the filing of that cause so as to avoid the conflict.

3) Where, in consideration of the dismissal exception provided by Indiana Rules of Criminal Procedure 2.2(C) in the event a cause is dismissed, it may later be refiled in the same court.

II. In order to offset the workload of exclusive juvenile filings in the Steuben Circuit Court, all

misdemeanor cases shall be exclusively filed in the Steuben Superior Court, except:

1) Where, in consideration of the workload exception provided by Indiana Rules of Criminal Procedure 2.2(B):

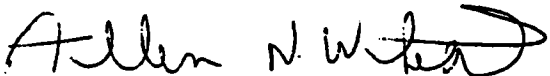
- a) an active case or cases exist against the individual to be charged, the new case shall be filed in that court, or
- b) The prosecuting attorney certifies to the clerk that new filings are "companion cases". For purposes of this order, "companion cases" shall denote cases involving co-defendants or cases arising out of the same or closely related transaction or occurrence or in any other instance where consideration of the case with others in the same forum is in the interests of judicial economy.

2) Where a conflict of interest exists, or other good cause is shown, the presiding judge of either court may permit the filing of that cause so as to avoid the conflict.

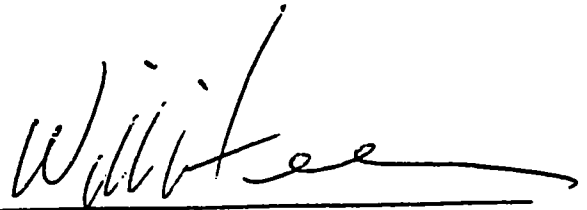
3) Where, in consideration of the dismissal exception provided by Indiana Rules of Criminal Procedure 2.2(C) in the event a cause is dismissed, it may later be refiled in the same court.

III. Pursuant to Indiana Rules of Criminal Procedure 2.2(D) and Indiana Rules of Criminal Procedure 13(C), in the event a change of judge is granted or a disqualification or recusal is entered, the case shall be reassigned in a manner consistent with the District Plan adopted pursuant to the Supreme Court Weighted Caseload Measures Order.

Dated: September 14, 2000



Honorable Allen N. Wheat
Steuben Circuit Court



Honorable William C. Fee
Steuben Superior Court

STEUBEN COUNTY SUPERIOR COURT # 1

2000*

CF	DF	CM	PC1	MC	IF	OV	JC	JD	JS	JP	JM	JT
38	106	666	0	25	3207	0	0	0	0	0	0	0
155	75	40		18	3	3	112	62	39	106	12	141
5890	7950	26640		450	9621	0	0	0	0	0	0	0
CP	CT	SC	DR	RS	MH	AD	AH	EU	GU	TR	PO	MI
195	18	1193	87	0	10	1	0	2	3	0	44	10
106	118	13	139	31	37	53		85	93	40	34	87
20670	2124	15509	12093	0	370	53	0	170	279	0	1496	870

Minutes: 104185

Load: 1.723

Have: 1.5

Utilized: 1.14842

Load Formula = ((Total Minutes/60)/1344 hours per officer) * 4/3 Quarters

*load and utilization projected for the year based on Q1, Q2, and Q3 data

STEUBEN COUNTY CIRCUIT COURT # 1

2000*

CF	DF	CM	PC1	MC	IF	OV	JC	JD	JS	JP	JM	JT
23	99	192	0	23	107	0	23	67	7	81	44	2
155	75	40		18	3	3	112	62	39	106	12	141
3565	7425	7680		414	321	0	2576	4154	273	8586	528	282
CP	CT	SC	DR	RS	MH	AD	AH	EU	GU	TR	PO	MI
138	15	0	100	21	30	17	0	66	20	2	35	30
106	118	13	139	31	37	53		85	93	40	34	87
14628	1770	0	13900	651	1110	901	0	5610	1860	80	1190	2610

Minutes: 80114

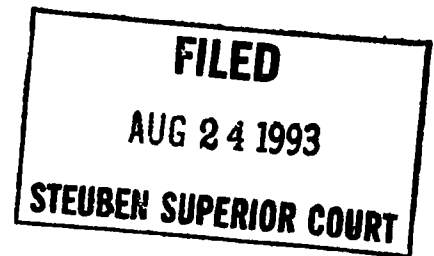
Load: 1.325

Have: 1.5

Utilized: 0.88309

Load Formula = ((Total Minutes/60)/1344 hours per officer) * 4/3 Quarters

*load and utilization projected for the year based on Q1, Q2, and Q3 data



JOINT LOCAL RULES
STEUBEN CIRCUIT COURT and STEUBEN SUPERIOR COURT

NOTE:

THESE RULES
FOR CIRCUIT COURT
ARE SUPERCEDED
BY RULE ISSUED
BY ALLENWHEAT
IN May 6, 1997

Questions call:

Amy Sharp

260-668-1000 ext. 2600

JOINT LOCAL RULES:

STEBEN CIRCUIT COURT and STEUBEN SUPERIOR COURT

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STATE OF INDIANA)
) SS:
COUNTY OF STEUBEN)

IN THE STEUBEN CIRCUIT COURT
IN THE STEUBEN SUPERIOR COURT

JOINT LOCAL RULES:

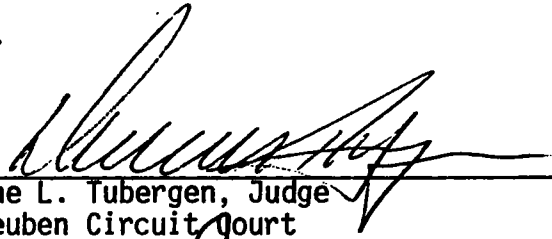
STEUBEN CIRCUIT COURT and STEUBEN SUPERIOR COURT

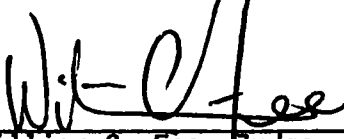
Pursuant to Trial Rule 81 of the Indiana Rules of Procedure, the Steuben Circuit Court and the Steuben Superior Court do hereby adopt the following local rules, repealing any local rules heretofore promulgated for Steuben Circuit Court or Steuben Superior Court.

Copies of these rules shall be certified with the Indiana Supreme Court and the Court of Appeals pursuant to Trial Rule 81.

Copies of these rules shall be located in the Clerk's Office, the Office of the Court, and on the Court Bench.

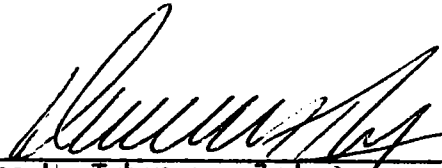
ADOPTED THIS 23 DAY OF AUGUST, 1993.


Dane L. Tubergen, Judge
Steuben Circuit Court



William C. Fee, Judge
Steuben Superior Court

CERTIFICATE OF SERVICE

We, Dane L. Tubergen, Judge of the Steuben Circuit Court, and William C. Fee, Judge of the Steuben Superior Court, hereby certify that we have served two (2) copies of these Rules upon the Clerk of the Supreme Court and the Court of Appeals of the State of Indiana pursuant to Trial Rule 81.


Dane L. Tubergen, Judge
Steuben Circuit Court

Dated: August 23, 1993


William C. Fee, Judge
Steuben Superior Court

CIVIL RULES

CIVIL RULE 1

FILING

WHEREAS, the Steuben Superior Court has the same jurisdiction as the Steuben Circuit Court; and the Steuben Circuit Court has an existing Probate and Juvenile division; and the Steuben Superior Court an existing Small Claims and Traffic division; and

WHEREAS, the presiding judge of the Steuben Circuit Court, Dane L. Tubergen, and the presiding judge of the Steuben Superior Court, William C. Fee, have by mutual consent promulgated a local rule pursuant to Trial Rule 81(A) regarding filing with the Court;

IT IS NOW ORDERED THAT,

1. All cases denominated as Probate, Adoption or Juvenile and any accompanying lesser criminal charges, shall be filed in the Steuben Circuit Court.
2. All cases denominated as Small Claims or traffic infractions shall be filed in the Steuben Superior Court.
3. All other cases shall be filed on the basis of individual random assignment between the Steuben Circuit Court and Steuben Superior Court, except,
 - A. Cases certified to the Clerk as "companion" cases by the attorney at the time of filing of the initial case may all be filed in the same Court of random selection. For purposes of this Order, a "companion" case shall denote any cases arising out of the same or closely related transaction or occurrence, or in any instance where consideration of the case with others in the same forum is in the interest of judicial economy.

B. The presiding judge of the Steuben Circuit Court or the Steuben Superior Court may consent to the filing of a case in his respective Court, notwithstanding the provisions of this Order.

CIVIL RULE 2

WITHDRAWAL OF APPEARANCE

Counsel desiring to withdraw appearance in any action shall file a written Petition requesting leave to do so. Said Petition shall fix a date for withdrawal, and counsel shall file with the Court satisfactory evidence of at least ten (10) days' written notice to his client in advance of the withdrawal date, or evidence of a good faith attempt to contact the client. A Petition for Withdrawal of Appearance, when accompanied by the Appearance of other counsel, shall constitute a waiver of the foregoing requirement.

In no event will the Court grant a Petition for Withdrawal of Appearance unless the same has been filed with the Court at least ten (10) days prior to trial date, except for good cause shown.

The filing or granting of a Petition to Withdraw the Appearance of counsel, by itself, shall not be a sufficient basis for the continuance of the trial of any cause.

CIVIL RULE 3

COURT SERVICE UPON ATTORNEYS

For purposes of Trial Rule 5(B) (1) (d), of the Indiana Rules of Civil Procedure, the Court designates the attorney boxes located in the Court Offices of the Steuben Superior Court and in the Steuben Circuit Court as a suitable place for delivery of pleadings and papers by the Clerk of Court to any attorney whose name, or the name of the law firm with which any such attorney practices, appears thereon.

CIVIL RULE 4

MOTIONS AND OBJECTIONS RELATING TO DISCOVERY

Strict conformance with TR 26-37 of the Indiana Rules of Trial Procedure which govern discovery will be required. Furthermore, to curtail undue delay in the administration of justice, the Court will refuse to rule on or will deny any and all motions related to discovery unless moving counsel refers to this rule and states in the motion that, after personal or telephonic meeting and consultation and sincere attempts to resolve differences, counsel are unable to reach an accord. The party's certificate of compliance with this rule must be filed with the Court in addition to the motion. This statement shall recite, in addition, the date, the time, and the place of such personal conference, and the names of all individuals attending. If counsel for any party advises the Court, by way of motion or response thereto, that opposing counsel has refused or delayed meeting and discussion of the problem covered in this section, then the Court may take such action as is appropriate to avoid delay.

CIVIL RULE 5
PRE-TRIAL CONFERENCE

There shall be a pre-trial conference in every civil case scheduled for jury trial. In other cases, upon motion of any party or upon motion of the Court, a pre-trial conference may be held.

Unless otherwise directed by the Court, all attorneys appearing at the pre-trial conference shall participate in the trial.

The parties shall be required to appear, in person, at the pre-trial conference if said party is proceeding pro se.

It shall be the duty of counsel for the Plaintiff or for the moving party to arrange for a conference of attorneys in advance of the pre-trial conference with the Court.

Both counsel for the Plaintiff and Defendant shall provide the Court, at or before the pre-trial conference, a list setting out the parties' expected witnesses, exhibits, list of contentions or issues and stipulations. Further, Plaintiff's counsel shall on said document also notify the Court of the date and place of the conference of attorneys.

CIVIL RULE 6

DISSOLUTION OF MARRIAGE AND PATERNITY

1. (a) Set out at Appendix 1 is a copy of the joint temporary restraining order, which will be issued by the Steuben Circuit and Superior Courts under Indiana Trial Rule 65(E). No other temporary restraining order will be issued by the Court covering any matters contained in a joint temporary restraining order which is issued under Trial Rule 65(E).
- (b) Other ex parte orders, including orders for possession of property, custody of children, and the exclusive use of a residence will be granted only upon the showing, by affidavit, of specific facts which demonstrate that justice requires the granting of immediate relief thereby denying the other party an opportunity to be heard.
2. (a) Because of their overwhelming demand on Court calendar time, all requests for orders pendente lite or for enforcement or modification of existing orders and decrees shall first be scheduled for an expedited hearing. Each party shall bring to the expedited hearing documentary evidence sufficient to establish their average weekly gross income. All persons seeking relief, and any party opposing the relief sought, are required to attend the expedited hearing. The parties shall first meet in a settlement conference. If they are unable to agree, the Court will hear and determine the matters at issue between the parties at the expedited hearing.
- (b) Any party, in open Court at the commencement of the expedited hearing, may demand an evidentiary hearing at which all rules of trial procedure and evidence will be observed. If such demand is made, the matters then at issue between the parties will be scheduled, heard, and determined at such evidentiary hearing. The Court may, however, conduct an expedited hearing to consider and determine any emergency matters or other

hearing to consider and determine any emergency matters or other necessary temporary orders until the evidentiary hearing can be held. The Court may, on its own motion, either before or after the expedited hearing, decline to determine any issues on the evidence presented at such hearing and shall thereafter schedule such issues for evidentiary hearing.

- (c) An expedited hearing is a proceeding in open court. At such hearing, the evidence shall be presented in summary fashion by the attorneys, or the parties if not represented by counsel, who shall summarize the evidence in a narrative statement. The Court may then question the parties or the attorneys and may require the presentation of brief testimony. Documentary evidence may also be received by the Court. Formal rules of evidence and procedure shall not apply, except that the Court shall endeavor to insure that traditional concepts of trustworthiness of evidence and fundamental fairness are observed.
- (d) Any party may request that the trial on a Petition for Dissolution of Marriage or a Petition to Determine Paternity be held under the procedure for an expedited hearing. Such request shall be made in writing and filed with the Court. Unless the other party files, within ten days, a written objection to proceeding in expedited fashion, the Court will schedule the trial for an expedited hearing under the procedures outlined in this rule

- 3. (a) The Courts have prepared and make available through the Court offices Property, Indebtedness and Earnings Disclosure Forms.
- (b) Court time for trial on a Petition For Dissolution Of Marriage in which property issues remain unresolved and contested will not be scheduled until one (1) party has filed a Property, Indebtedness and Earnings Disclosure Form and request for trial. This requirement shall apply whether the

request for Court time is for expedited hearing or evidentiary hearing.

- (c) A copy of said form, when served upon the opposing party, shall be deemed to be a Request for Admissions by the opposing party that the information contained on said form is true.
- (d) The opposing party shall respond to such request for admissions by completing such party's respective portion of the disclosure form and filing same with the Court within thirty (30) days from date of service. The responding party shall make his or her disclosures on a copy of the same form served by the opposing party so that the copy filed with the Court contains both parties' disclosures on the same form.
- (e) In the event that the party being served with the initial Property, Indebtedness and Earnings Disclosure Form does not, within thirty (30) days from the date of service, file his or her respective portion of the disclosure form, the factual information contained in the Property, Indebtedness and Earnings Disclosure Form then on file shall be deemed to be admitted as fact by all parties.

- 4. All orders establishing or modifying child support shall be effective as of the date the request for said establishment or modification was filed. All orders establishing or modifying child support shall be made in accordance with the Indiana Child Support Guidelines, established by the Indiana Supreme Court and Indiana Code 31-1-11.5.
- 5. Unless the Court enters specific orders to the contrary, any order of the Court providing for custody of children shall be deemed to provide, by operation of this rule, for the implementation of access and companionship with said children by the non-custodial parent in accordance with the Access and Companionship Schedule of the Steuben Circuit and Superior Courts as set forth at Appendix 3. Whenever an exsiting

decree provides for access, companionship or visitation with children at reasonable times and places or uses language of similar intent, or when no other more specific access, companionship and visitation schedule is set forth, the Steuben Circuit and Superior Court Access and Companionship Schedule shall apply. **SEE ATTACHED MEMO.**

6. In any dissolution, separation or other case where orders are requested regarding unemancipated children, both parties to the proceeding shall attend and complete a court approved educational program designed to lessen the adverse impact of divorce and separation upon children. The parties shall register for the program within ten (10) days of filing. Failure to so register may constitute cause for denial of requested relief including provisional orders and final decrees. Provided, however, that this rule shall not be construed so as to permit any party to delay legal proceedings by not registering or attending the educational program.

~~This rule shall become effective upon further notice.~~



STEBEN SUPERIOR COURT

William C. Fee, Judge

85th Judicial Circuit
55 S. Public Square
Angola, IN 46703-1945
(219) 668-1000 ext. 2600

TO: Steuben County Bar
Local non-attorney family mediators

FROM: William C. Fee, Judge
Steuben Superior Court

DATE: January 4, 2001

RE: PARENTING TIME GUIDELINES

Please be advised that effective immediately all custody and visitation orders issuing from the Steuben Superior Court shall comply with the attached Parenting Time Guidelines recently adopted by the Indiana Supreme Court. The Access and Companionship Schedule previously utilized by the Court shall be discontinued, except as it is incorporated into existing Orders and Decrees.

pc: Honorable Allen N. Wheat, Steuben Circuit Court
Magistrate Randy Coffey, Steuben Circuit/Superior Courts
Ms. Debra Arnett, Clerk of Steuben Circuit/Superior Courts
on file

94500-0012-MS-767

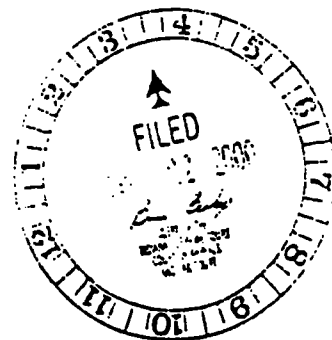
FILED

DEC 29 2000

CLERK STEUBEN CIRCUIT COURT

Debra Arnett

IN THE
SUPREME COURT OF INDIANA
ORDER ADOPTING
PARENTING TIME GUIDELINES



Under the authority vested in this Court to provide by rule for the procedure employed in all courts of this state and this Court's inherent authority to supervise the administrative procedures of all courts and to direct trial courts in implementing and applying applicable statutes, this Court now adopts the **Indiana Parenting Time Guidelines** set forth as follows:

Indiana Parenting Time Guidelines

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PREAMBLE

The Indiana Parenting Time Guidelines are based on the premise that it is usually in a child's best interest to have frequent, meaningful and continuing contact with each parent. It is assumed that both parents nurture their child in important ways, significant to the development and well being of the child. The Guidelines also acknowledge that scheduling parenting time is more difficult when separate households are involved and requires persistent effort and communication between parents to promote the best interest of the children involved. The purpose of these guidelines is to provide a model which may be adjusted depending upon the unique needs and circumstances of each family. These guidelines are based upon the developmental stages of children. The members of the Domestic Relations Committee of the Judicial Conference of Indiana developed the guidelines after reviewing the current and relevant literature concerning visitation, the visitation guidelines of other geographic areas, and the input of child development experts and family law practitioners. Committee members also relied upon data from surveys of judges, attorneys, and mental health professionals who work with children, reviews of court files, and a public hearing.

A child whose parents live apart has special needs related to the parent-child relationship. A child's needs and ability to cope with the parent's situation change as the child matures. Parents should consider these needs as they negotiate parenting time. They should be flexible and create a parenting time agreement which addresses the unique needs of the child and their circumstances. The Indiana Parenting Time Guidelines are designed to assist parents and courts in the development of plans and represent the minimum time a parent should have to maintain frequent, meaningful, and continuing contact with a child.

Commentary

- 1. Use of Term "Parenting Time." Throughout these Guidelines the words "parenting time" have been used instead of the word "visitation" so as to emphasize the importance of the time a parent spend with a child. The concept that a non-custodial parent "visits" with a child does not convey the reality of the continuing parent-child relationship.***

2. Minimum Time Concept. *The concept that these Guidelines represent the minimum time a non-custodial parent should spend with a child should not be interpreted as a limitation of time imposed by the court. They are not meant to foreclose the parents from agreeing to, or the court from granting, such additional or reduced parenting time as may be reasonable in any given case. In addressing all parenting time issues, both parents should exercise sensibility, flexibility and reasonableness.*

3. Purpose of Commentary Following Rule. *Throughout these Guidelines many of the rules are followed by a commentary further explaining the rule or setting forth the child centered philosophy behind the rule. The commentary is not an enforceable rule but provides guidance in applying the rule.*

SCOPE OF APPLICATION

1. Generally. These Guidelines are applicable to all child custody situations, including paternity cases and cases involving joint legal custody where one person has primary physical custody. However, they are not applicable to situations involving family violence, substance abuse, risk of flight with a child, or any other circumstances the court reasonably believes endanger the child's physical health or safety, or significantly impair the child's emotional development.

Commentary

Variance from the Indiana Parenting Time Guidelines does not alone constitute good cause for amendment of an existing visitation order; however, a court or parties to a proceeding may refer to these guidelines in making changes to a parenting time order after the effective date of the guidelines.

2. Presumption. There is a presumption that the Indiana Parenting Time Guidelines are applicable in all cases covered by these guidelines. Any deviation from these Guidelines by either the parties or the court must be accompanied by a written explanation indicating why the deviation is necessary or appropriate in the case.

Commentary

The written explanation need not be as formal as Findings of Fact and Conclusions of

Law; however, it must state the reason(s) for the deviation.

A CHILD'S BASIC NEEDS

To insure more responsible parenting and to promote the healthy adjustment and growth of a child each parent should recognize and address a child's basic needs:

1. To know that the parents' decision to live apart is not the child's fault.
2. To develop and maintain an independent relationship with each parent and to have the continuing care and guidance from each parent.
3. To be free from having to side with either parent and to be free from conflict between the parents.
4. To have a relaxed, secure relationship with each parent without being placed in a position to manipulate one parent against the other.
5. To enjoy regular and consistent time with each parent.
6. To be financially supported by each parent, regardless of how much time each parent spends with the child.
7. To be physically safe and adequately supervised when in the care of each parent and to have a stable, consistent and responsible child care arrangement when not supervised by a parent.
8. To develop and maintain meaningful relationships with other significant adults (grandparents, stepparents and other relatives) as long as these relationships do not interfere with or replace the child's primary relationship with the parents.

SECTION I
GENERAL RULES APPLICABLE TO PARENTING TIME

A. COMMUNICATIONS

1. **Between Parents.** Parents shall at all times keep each other advised of their home and work addresses and telephone numbers. Notice of any change in this information shall be given to the other parent in writing. All communications concerning a child shall be conducted between the parents. Any communication shall occur at reasonable times and places unless circumstances require otherwise. A child shall not be used to exchange documents or financial information between parents.

2. **With A Child Generally.** A child and a parent shall be entitled to private communications without interference from the other parent. A child shall never be used by one parent to spy or report on the other. Each parent shall encourage the child to respect and love the other parent. Parents shall at all times avoid speaking negatively about each other in or near the presence of the child, and they shall firmly discourage such conduct by relatives or friends.

3. **With A Child By Telephone.** Both parents shall have reasonable phone access to their child at all times. Telephone communication with the child by either parent to the residence where the child is located shall be conducted at reasonable hours, shall be of reasonable duration, and at reasonable intervals, without interference from the other parent.

If a parent uses an answering machine, voice mail or a pager, messages left for a child shall be promptly communicated to the child and the call returned.

Commentary

Parents should agree on a specified time for telephone calls so that a child will be available to receive the call. The parent initiating the call should bear the expense of the call. A child may, of course, call either parent, though at reasonable hours, frequencies, and at the cost of the parent called if it is a long distance call.

Examples of unacceptable interference with communication include a parent refusing to answer a phone or refusing to allow the child or others to answer; a parent recording phone conversations between the other parent and the child; turning off the phone or using a call blocking mechanism or otherwise denying the other parent telephone contact with the child.

4. **With A Child By Mail.** A parent and a child shall have a right to communicate privately by e-mail and faxes, and by cards, letters, and packages, without interference by the other parent.

Commentary

A parent should not impose obstacles to mail communications. For example, if a custodial parent has a rural address, the parent should maintain a mailbox to receive mail at that address. A parent who receives a communication for a child shall promptly deliver it to the child.

5. **Emergency Notification.** For emergency notification purposes, whenever a child travels out of the area with either parent, one of the following shall be provided to the other parent: An itinerary of travel dates, destinations, and places where the child or the traveling parent can be reached, or the name and telephone number of an available third person who knows where the child or parent may be located.

B. IMPLEMENTING PARENTING TIME

1. **Transportation Responsibilities.** Unless otherwise agreed between the parents, the non-custodial parent shall provide transportation for the child at the start of the scheduled parenting time and the custodial parent shall provide transportation for the child at the end of the scheduled parenting time.

Commentary

1. Presence Of Both Parents. Both parents should be present at the time of the exchange and should make every reasonable effort to personally transport the child. On those occasions when a parent is unable to be present at the time of the exchange or it becomes necessary for the child to be transported by someone other than a parent, this should be communicated to the other parent in advance if possible. In such cases, the

person present at the exchange, or transporting the child, should be a responsible adult with whom the child is familiar and comfortable.

2. Distance/Cost As Factors. *Where the distance between the parents' residences is such that extended driving time is necessary, the parents should agree on a location for the exchange of the child. The cost of transportation should be shared based on consideration of various factors, including the distance involved, the financial resources of the parents, the reason why the distances exist, and the family situation of each parent at that time.*

3. Parental Hostility. *In a situation where hostility between parents makes it impracticable to exchange a child at the parents' residences, the exchange of the child should take place at a neutral site.*

2. Punctuality. Each parent shall have the child ready for exchange at the beginning and at the end of the scheduled parenting time and shall be on time in picking up and returning the child. The parents shall communicate as early as possible regarding any situation that would interfere with the timely exchange of the child.

Commentary

Punctuality is a matter of courtesy. Parents should make every effort to pick up and return a child at the agreed time, and not substantially earlier or later. Parents should recognize, however, that circumstances occur that require leeway in the scheduled times. Phone calls are always appropriate when there will be a delay.

3. Clothing. The custodial parent shall send an appropriate and adequate supply of clean clothing with the child and the non-custodial parent shall return such clothing in a clean condition. Each parent shall advise the other, as far in advance as possible, of any special activities so that the appropriate clothing may be available to the child.

Commentary

It is the responsibility of both parents to ensure their child is properly clothed. The non-custodial parent may wish to have a basic supply of clothing available for the child at his or her home.

4. Privacy of Residence. A parent may not enter the residence of the other, except by express invitation, regardless of whether a parent retains a property interest in the residence of the other. Accordingly, the child shall be picked up at the front entrance of the appropriate residence unless the parents agree otherwise. The person delivering the child shall not leave until the child is

safely inside.

C. CHANGES IN SCHEDULED PARENTING TIME

Introduction

Parents should recognize there will be occasions when modification of the existing parenting schedule will be necessary. Parents should exercise reasonable judgment in their dealings with each other and with their child. Parents should be flexible in scheduling parenting time and should consider the benefits to the child of frequent, meaningful and regular contact with each parent and the schedules of the child and each parent.

1. **Scheduled Parenting Time To Occur As Planned.** Parenting time is both a right and a responsibility, and scheduled parenting time shall occur as planned. If a parent is unable to provide personal care for the child during scheduled parenting time, then that parent shall provide alternate child care or pay the reasonable costs of child care caused by the failure to exercise the scheduled parenting time.

Commentary

Parents should understand it is important for a child to experience consistent and ongoing parenting time. A child is entitled to rely on spending time with each parent in a predictable way and adjusts better after a routine has been established and followed. A parent who consistently cancels scheduled parenting time sends a very harmful message to the child that the child is not a priority in that parent's life. In addition to disappointing a child, the voluntary cancellation of scheduled parenting time by one parent may interfere with the plans of the other parent or cause the other parent to incur child care and other costs.

2. **Adjustments to Schedule / "Make Up" Time.** Whenever there is a need to adjust the established parenting schedules because of events outside the normal family routine, the parent who becomes aware of the circumstance shall notify the other parent as far in advance as possible. Both parents shall then attempt to reach a mutually acceptable adjustment to the parenting schedule.

If an adjustment results in one parent losing scheduled parenting time with the child,

"make-up" time should be exercised as soon as possible. If the parents cannot agree on "make-up" time, the parent who lost the time shall select the "make-up" time within one month of the missed time.

Commentary

There will be occasions when scheduled parenting times may need to be adjusted because of illnesses or special family events such as weddings, funerals, reunions, and the like. Each parent should accommodate the other in making the adjustment so that the child may attend the family event. After considering the child's best interests, the parent who lost parenting time may decide to forego the "make-up" time.

3. Opportunity for Additional Parenting Time. When it becomes necessary that a child be cared for by a person other than a parent or a family member, the parent needing the child care shall first offer the other parent the opportunity for additional parenting time. The other parent is under no obligation to provide the child care. If the other parent elects to provide this care, it shall be done at no cost.

Commentary

The rule providing for opportunities for additional parenting time promotes the concept that a child receives greater benefit from being with a parent rather than a child care provider. It is also intended to be practical. When a parent's work schedule or other regular recurring activities require hiring a child care provider, the other parent should be given the opportunity to provide the care. Distance, transportation or time may make the rule impractical. Parents should agree on the amount of child care time and the circumstances that require the offer be made.

D. EXCHANGE OF INFORMATION

Commentary

A child may suffer inconvenience, embarrassment, and physical or emotional harm when parents fail to actively obtain and share information. Parents should take the initiative to obtain information about their child from the various providers of services.

1. School Records. Each parent shall promptly provide the other with copies of a child's grade reports and notices from school as they are received. A parent shall not interfere with

the right of the other parent to communicate directly with school personnel concerning a child.

Commentary

Under Indiana law, both parents are entitled to direct access to their child's school records, Indiana Code § 20-10.1-22.4-2.

2. School Activities. Each parent shall promptly notify the other parent of all school activities. A parent shall not interfere with the right of the other parent to communicate directly with school personnel concerning a child's school activities. The parent exercising parenting time shall be responsible to transport the child to school related activities.

Commentary

The opportunity for a child to attend a school function should not be denied solely because a parent is not able to attend the function. In such instance, the child should be permitted to attend the function with the available parent. Scheduled parenting time should not be used as an excuse to deny the child's participation in school related activities, including practices and rehearsals.

3. Other Activities. Each parent shall promptly notify the other parent of all organized events in a child's life which permit parental and family participation. A parent shall not interfere with the opportunity of the other parent to volunteer for or participate in a child's activities.

Commentary

A child is more likely to enjoy these experiences when supported by both parents. Each parent should have the opportunity to participate in other activities involving the child even if that activity does not occur during his or her parenting time. This includes activities like church functions, athletic events, scouting, school photographs, etc.

4. Health Information. If a child is undergoing evaluation or treatment, the custodial parent shall communicate that fact to the non-custodial parent.

Each parent shall immediately notify the other of any medical emergencies or illness of the child that requires medical attention.

If a child is taking prescription or nonprescription medication, the custodial parent shall provide the noncustodial parent with a sufficient amount of medication with instructions whenever the noncustodial parent is exercising parenting time.

The custodial parent shall give written authorization to the child's health care providers, permitting an ongoing release of all information regarding the child to the non-custodial parent including the right of the provider to discuss the child's situation with the non-custodial parent.

Commentary

Each parent has the responsibility to become informed and participate in ongoing therapies and treatments prescribed for a child and to ensure that medications are administered as prescribed. An evaluation or treatment for a child includes medical, dental, educational, and mental health services.

Under Indiana law, both parents are entitled to direct access to their child's medical records, Indiana Code § 16-39-1-7; and mental health records, Indiana Code § 16-39-2-9.

4. **Insurance.** A parent who has insurance coverage on the child shall supply the other parent with current insurance cards, an explanation of benefits, and a list of insurer-approved or HMO-qualified health care providers in the area where each parent lives. If the insurance company requires specific forms, the insured parent shall provide those forms to the other parent.

Commentary

Qualified health care orders may permit the parent to communicate with the medical health care insurance provider.

E. RESOLUTION OF PROBLEMS

1. **Disagreements Generally.** When a disagreement occurs regarding parenting time and the requirements of these Guidelines, both parents shall make every effort to discuss options, including mediation, in an attempt to resolve the dispute before going to court.

2. **Mediation.** If court action is initiated, the parents shall enter into mediation unless otherwise ordered by the court.

3. **Child Hesitation.** If a child is reluctant to participate in parenting time, each parent shall be responsible to ensure the child complies with the scheduled parenting time. In no event shall a child be allowed to make the decision on whether scheduled parenting time takes place.

Commentary

In most cases, when a child hesitates to spend time with a parent, it is the result of naturally occurring changes in the life of a child. The child can be helped to overcome hesitation if the parents listen to the child, speak to each other and practically address the child's needs.

Parents should inquire why a child is reluctant to spend time with a parent. If a parent believes that a child's safety is compromised in the care of the other parent, that parent should take steps to protect the child, but must recognize the rights of the other parent. This situation must be promptly resolved by both parents. Family counseling may be appropriate. If the parents cannot resolve the situation, either parent may seek the assistance of the court.

4. **Relocation.** When either parent considers a change of residence, reasonable advance notice of the intent to move shall be provided to the other parent so they can discuss necessary changes in the parenting schedule as well as the allocation of transportation costs in exercising parenting time which may result from the move.

Commentary

1. Impact Of Move. Parents should recognize the impact that a change of residence may have on a child and on the established parenting time. The welfare of the child should be a priority in making the decision to move.

2. Indiana Law. Indiana law (Ind. Code § 31-14-13-10 and Ind. Code § 31-17-2-23) require that if a custodial parent intends to move outside Indiana, or more than one hundred (100) miles from the individual's county of residence, a notice of intent to move must be filed with the clerk of the court that issued the custody order, and a copy of the notice must be sent to the other parent.

5. **Withholding Support or Parenting Time.** Neither parenting time nor child support shall be withheld because of either parent's failure to comply with a court order. Only the court may enter sanctions for noncompliance. A child has the right both to support and parenting time, neither of which is dependent upon the other. If there is a violation of either requirement, the remedy is to apply to the court for appropriate sanctions.

6. **Enforcement of Parenting Time**

A. **Contempt Sanctions.** Court orders regarding parenting time must be followed by

both parents. Unjustified violations of any of the provisions contained in the order may subject the offender to contempt sanctions. These sanctions may include fine, imprisonment, and/or community service.

B. Injunctive Relief. Under Indiana law, a noncustodial parent who regularly pays support and is barred from parenting time by the custodial parent may file an application for an injunction to enforce parenting time under Ind. Code § 31-17-4-4.

C. Criminal Penalties. Interference with custody or visitation rights may be a crime. Ind. Code § 35-42-3-4.

D. Attorney Fees. In any court action to enforce an order granting or denying parenting time, a court may award reasonable attorney fees and expenses of litigation. A court may consider whether the parent seeking attorney fees substantially prevailed and whether the parent violating the order did so knowingly or intentionally. A court can also award attorney fees and expenses against a parent who pursues a frivolous or vexatious court action.

SECTION II

SPECIFIC PARENTING TIME PROVISIONS

INTRODUCTION

The best parenting plan is one created by parents which fulfills the unique needs of the child and the parents. The specific provisions which follow are designed to assist parents and the court in the development of a parenting plan. They represent the minimum recommended time a parent should have to maintain frequent, meaningful, and continuing contact with a child.

Commentary

1. Assumptions. The provisions identify parenting time for the non-custodial parent and assume that one parent has sole custody or primary physical custody of a child, that both parents are fit and proper, that both parents have adequately bonded with the child, and that both parents are willing to parent the child. They further assume that the parents are respectful of each other and will cooperate with each other to promote the best interests of the child. Finally, the provisions assume that each

parent is responsible for the nurturing and care of the child. Parenting time is both a right and a trust and parents are expected to assume full responsibility for the child during their individual parenting time.

2. *Lack of Contact.* Where there is a significant lack of contact between a parent and a child, there may be no bond, or emotional connection, between the parent and the child. It is recommended that scheduled parenting time be "phased in" to permit the parent and child to adjust to their situation. It may be necessary for an expert to evaluate the current relationship (or lack thereof) between the parent and the child and recommend a schedule.

3. *Age Categories.* The chronological age ranges set forth in the specific provisions are estimates of the developmental stages of children since children mature at different times.

4. *Multiple Children of Different Ages.* When a family has children of different ages, the presumption is that all the children should remain together during the exercise of parenting time. However, the standards set for a young child should not be ignored, and there will be situations where not all of the children participate in parenting time together. On the other hand, when there are younger and older children, it will generally be appropriate to accelerate, to some extent, the time when the younger children move into overnight or weekend parenting time, to keep sibling relationships intact.

5. *Non-traditional Work Schedules.* For parents with non-traditional work schedules, who may regularly work weekends, weekday parenting time should be substituted for the weekend time designated in these rules. Similar consideration should also be given to parents with other kinds of non-traditional work hours.

A. INFANTS AND TODDLERS

Introduction

The first few years of a child's life are recognized as being critical to that child's ultimate development. Infants (under eighteen months) and toddlers (eighteen months to three years) have a great need for continuous contact with the primary care giver who provides a sense of security, nurturing and predictability. It is thought best if scheduled parenting time in infancy be minimally disruptive to the infant's schedule.

Commentary

1. *Both Parents Necessary.* It is critical that a child be afforded ample opportunity to bond with both parents. A young child thrives when both parents take an active role in parenting. There is a positive relationship between the degree of involvement of

mothers and fathers and the social, emotional, and cognitive growth of a child. Both parents can care for their child with equal effectiveness and their parenting styles may make significant contributions to the development of the child. Parents, therefore, must be flexible in creating for each other opportunities to share both the routine and special events of their child's early development.

*2. **Frequency Versus Duration.** Infants and young children have a limited but evolving sense of time. These children also have a limited ability to recall persons not directly in front of them. For infants, short frequent visits are much better than longer visits spaced farther apart. From the vantage point of the young child, daily contact with each parent is ideal. If workable, it is recommended that no more than two days go by without contact with the noncustodial parent. A parent who cannot visit often may desire to increase the duration of visits but this practice is not recommended for infants. Frequent and predictable parenting time is best.*

1. Overnight Parenting Time Unless it can be demonstrated that the non-custodial parent has not had regular care responsibilities for the child, parenting time shall include overnights. If the non-custodial parent has not previously exercised regular care responsibilities for the child, then parenting time shall not include overnights prior to the child's third birthday, except as provided below.

Commentary

Overnight contact between parents and very young children can provide opportunities for them to grow as a family. At the same time, when very young children experience sudden changes in their night time care routines, especially when these changes include separation from the usual caretaker, they can become frightened and unhappy. Under these circumstances, they may find it difficult to relax and thrive, even when offered excellent care.

When a very young child is accustomed to receiving regular, hands-on care from both parents, the child should continue to receive this care when the parents separate. Regardless of custodial status, a parent who has regularly cared for the child prior to separation should be encouraged to exercise overnight parenting time. When a parent has not provided regular hands-on care for the child prior to separation, overnight parenting time is not recommended until the parent and the child have developed a predictable and comfortable daytime care taking routine.

2. Parenting Time In Early Infancy (Birth through Age 9 Months)
(A) **Birth through Age 4 Months:**

(1) Three (3) non-consecutive "days" per week of two (2) hours in length.

(2) All scheduled holidays of two (2) hours in length.

(3) Overnight if appropriate under Rule 1 above but not to exceed one (1) 24 hour period per week.

Commentary

The custodial home is the preferred place for this parenting time to occur. However, in some cases this may not be practical. Parenting time should occur in a stable place and without disruption of an infant's established routine.

(B) Age 5 Months through Age 9 Months:

(1) Three (3) non-consecutive "days" per week of three (3) hours per day. The child is to be returned at least one (1) hour before evening bedtime.

(2) All scheduled holidays of three (3) hours in length. The child is to be returned at least one (1) hour before evening bedtime.

(3) Overnight if appropriate under Rule 1 above but not to exceed one (1) 24 hour period per week.

3. Parenting Time In Later Infancy (Age 10 Months through Age 18 Months)

(A) Age 10 Months through Age 12 Months:

(1) Three (3) non-consecutive "days" per week, with one day on a "non-work" day for eight (8) hours. The other days shall be for three (3) hours each day. The child is to be returned at least one (1) hour before evening bedtime.

(2) All scheduled holidays for eight (8) hours. The child is to be returned at least one (1) hour before evening bedtime.

(3) Overnight if appropriate under Rule 1 above but not to exceed one (1) 24 hour period per week.

(B) Age 13 Months through Age 18 Months:

(1) Three (3) non-consecutive "days" per week, with one day on a "non-work" day for ten (10) hours. The other days shall be for three (3) hours each day. The child is to be returned at least one (1) hour before evening bedtime.

(2) All scheduled holidays for eight (8) hours. The child is to be returned

at least (1) hour before evening bedtime.

(3) Overnight if appropriate under Rule 1 above but not to exceed one (1) 24 hour period per week.

(C) Age 19 Months through 36 Months:

(1) Alternate weekends on Saturdays for ten (10) hours and on Sundays for ten (10) hours. The child is to be returned at least one hour before bedtime, unless overnight is appropriate under Rule 1.

(2) One (1) "day" preferably in mid-week for three (3) hours, the child to be returned at least one (1) hour before evening bedtime, unless overnight during the week is appropriate under Rule 1.

(3) All scheduled holidays for ten (10) hours. The child is to be returned one hour before bedtime.

(4) If the non-custodial parent who did not initially have substantial care responsibilities has exercised the scheduled parenting time under these guidelines for at least nine (9) continuous months, overnight parenting time may take place.

B. CHILD 3 YEARS OF AGE AND OLDER

1. Regular Parenting Time

(1) On alternating weekends from Friday at 6:00 P.M. until Sunday at 6:00 P.M. (the times may change to fit the parents' schedules).

(2) One (1) evening per week, preferably in mid-week, for a period of up to four hours but the child shall be returned no later than 9:00 p.m.

(3) On all scheduled holidays.

Commentary

Where the distance from the non-custodial parent's residence makes it reasonable, the weekday period may be extended to an overnight stay. In such circumstances, the responsibility of feeding the child the next morning, getting the child to school or day care, or returning the child to the residence of the custodial parent, if the child is not in school, shall be on the non-custodial parent.

2. Extended Parenting Time (Child 3 through 4 Years Old)

Up to four (4) non-consecutive weeks during the year beginning at 4:00 P.M. on Sunday until 4:00 P.M. on the following Sunday, the non-custodial parent to give sixty (60) days advance notice of the use of a particular week.

3. Extended Parenting Time (Child 5 and older)

One-half of the summer vacation. The time may be either consecutive or split into two (2) segments. The noncustodial parent shall give notice to the custodial parent of the selection by April 1 of each year. If such notice is not given, the custodial parent shall make the selection.

If a child attends year-round school, the periodic breaks should be divided equally between the parents.

If a child attends summer school, the parent exercising parenting time shall be responsible for the child's transportation to and attendance at school.

During any extended summer period of more than two (2) consecutive weeks with the non-custodial parent, the custodial parent shall have the benefit of the regular parenting time schedule set forth above, unless impracticable because of distance created by out of town vacations.

Similarly, during the summer period when the children are with the custodial parent for more than two (2) consecutive weeks, the non-custodial parent's regular parenting time continues, unless impracticable because of distance created by out of town vacations.

Notice of an employer's restrictions on the vacation time of either parent shall be delivered to the other parent as soon as that information is available. In scheduling parenting time the employer imposed restrictions on either parent's time shall be considered by the parents in arranging their time with their child.

C. PARENTING TIME FOR THE ADOLESCENT AND TEENAGER

1. Regular Parenting Time. Regular parenting time by the noncustodial parent on alternating weekends, during holidays, and for an extended time during the summer months as set forth in the Parenting Time Guidelines (Section II. B.) shall apply to the adolescent and teenager.

Commentary

1. A Teenager Needs Both Parents. Adolescence is a stage of child development in which parents play an extremely important role. The single most important factor in keeping a teenager safe is a strong connection to the family. The responsibility to help a teenager maintain this connection to the family rests with the parents, regardless of their relationship. The parents must help the teenager balance the need for independence with the need to be an active part of the family. To accomplish this, they must spend time with the teenager. Parents must help the adolescent become a responsible adult. A teenager should safely learn life's lessons if the parents provide

the rules which prevent dangerous mistakes.

2. Anchors of Adolescence. *Regardless of whether the parents live together or apart, an adolescent can be made to feel part of a supportive, helpful family. Things that can help this occur include:*

Regular time spent in the company of each parent. Parents need to be available for conversation and recreation. They need to teach a teenager skills that will help the teen in adult life.

Regular time spent in the company of siblings. Regardless of personality and age differences, siblings who spend time together can form a family community that can be a tremendous support in adult life. If the children do not create natural opportunities for them to want to do things together, the parents will need to create reasons for this to occur.

Emphasis on worthwhile values. Parent and teens together should invest time in wholesome activities that teach a teenager important lessons. If a teenager identifies with worthwhile values, the teen is more likely to have a positive self-image.

Time spent with good friends. A parent's expectations can influence a teenager's choice of friends. Meet your teenager's friends and their parents and interact with them as guests in your home. This will increase the likelihood that your teenager's friends will be people who are comfortable in the environment that is good for the teen.

Clear rules that are agreed upon by both parents. As a child matures, it is very important that the teen knows rules of acceptable behavior. The chances of this occurring are much better if both parents agree in these important areas. When parents jointly set the standard of behavior for their teen, the chances of the child accepting those values are greatly increased.

Good decisions/greater freedoms. A teenager who does what is expected should be offered more freedom and a wider range of choices. It is helpful if a teenager is reminded of the good decisions that have caused the teen to be given more privileges. If a teen is helped to see that privileges are earned and not natural "rights" he or she will be more likely to realize that the key to getting more freedom is to behave well. If rules are not followed, appropriate consequences should result. A teenager who does not make good use of independence should have less of it.

3. Decision Making In Parenting A Teenager. *The rearing of a teenager requires parents to make decisions about what their teen should be allowed to do, when, and with whom. At the same time, parents who live apart may have difficulty communicating with each other.*

If parents are not able to agree, the teenager, who very much wants freedom from adult authority, should never be used as the "tie breaker." When parents live apart, it is more likely that a child will be required to make decisions, not as a healthy part of

development, but simply to resolve disagreements between the parents.

As a general rule, a teenager should be involved in making important decisions if the parents agree the opportunity to make the decision is valuable, and the value of that opportunity outweighs any possible harm of a poor decision. If the parents feel the welfare of the child is dependent on the decision made, and if they allow the child to make a decision simply because they cannot agree, the parents are in danger of failing the child.

Example #1

Mary Jones and John Jones disagree as to whether or not their daughter, Sally, should study a foreign language in middle school. Mary feels that this early exposure to a foreign language will offer Sally an advantage when she continues this study in high school. John would like Sally to have the opportunity to develop her artistic talents through electives in drawing and painting. The Jones agree that Sally's success and happiness will in large part be determined by her motivation. They agree that Sally should decide between a foreign language and art, and that they will support whatever decision she makes.

Comment: *Mary and John feel that Sally is mature enough to think about what interests her and makes her happy. They feel that an opportunity to do this in choosing an elective will be an important experience for Mary - more important than the relative merits of foreign language or art study to Sally's academic career. This is a good example of parents agreeing to involve the adolescent in making a decision that resolves their own disagreement.*

Example #2

Tom Smith and Sue Smith cannot come to a visitation agreement. Tom believes their 17 year old son, Pete, should have visitation at a time to be determined by Pete. Tom feels that, if Pete is given a visitation schedule, he will feel that he is being forced to see his father. Tom further believes this will weaken his relationship with his son. Sue believes a clear plan regarding the time Tom and Pete spend together should be established. She says if Pete is not given a firm expectation of when he will be with Tom, it will be too easy for other activities in Pete's life to crowd out this priority. Unable to resolve this question, Tom and Sue give Pete the option of deciding if he would like a visitation schedule or if he would like to be free to see his father whenever he pleases.

Comment: *Tom and Sue each feel the quality of Pete's relationship with Tom will depend on the way that visitation is structured. Each believes that, if Pete makes the wrong choice, the problems that follow could impact him throughout his adult life. They have placed the responsibility for the decision on Pete, not because the chance to make such a decision will help him, but because they cannot resolve the matter between themselves. This is a poor reason for entrusting an adolescent with such an important decision.*

2. **Special Considerations.** In exercising parenting time with a teenager, the non-custodial parent shall make reasonable efforts to accommodate a teenager's participation in his or her regular academic, extracurricular and social activities.

Commentary

Making Regular Parenting Time Workable. Parents must develop a parenting plan that evolves or changes as the teen matures. The needs of the child at age thirteen will be very different from the needs of that same child at age seventeen. Parents also must develop a parenting plan that assures regular involvement of both parents. This can be a particular challenge when the teen is involved with school, activities, and friends, and becomes even more difficult when the parents live some distance apart.

When parents differ in their views of which freedoms should be given and which should be withheld, the parents must be sufficiently united to keep the teenager from assuming responsibilities when the child is not ready. At the same time, the parents must respect that they will run their homes differently because they are living apart.

Living apart challenges parents to teach their child that different ways of doing things can work for different parents. They must see that their child needs to work especially hard to adapt to two distinct ways of doing things. Not all differences mean that one parent is right and one parent is wrong. The key is for parents to realize different homes can produce a well-adjusted teen.

Example: The Student Athlete

Jim Doe and Jane Doe have been divorced for 3 years. Their oldest child, Jeremy, is beginning high school. Throughout his middle school years, Jeremy was active in football. Practices were held after school and games took place on weekends. Jeremy had spent alternating weekends and one night each week with his noncustodial parent.

The parent who had Jeremy took him to practices and games during the time they were together. On week nights with the noncustodial parent, this usually consisted of dinner and conversation. Weekends with both parents included homework, chores, play, and family outings.

Jeremy's high school coach is serious about football. Jeremy loves the sport. Coach expects Jeremy to work out with teammates throughout the early summer. In August, practice occurs three times a day. Once school begins, Jeremy will practice after school for several hours each day. In addition, he is taking some difficult courses and expects that several hours of study will be needed each night. Jeremy will have games on Friday nights. Because of his busy weekend schedule, he expects that Saturdays will be his only time to be with friends.

Discussion

On the surface, a traditional parenting plan, placing Jeremy with his noncustodial parent on alternating weekends and one night each week, would not seem to work. Jeremy's athletic and academic demands will require him to work hard on weeknight

evenings. Jeremy's parents agree he needs time to be with friends and he should be allowed to make social plans on Saturdays. They recognize Sundays will often need to be devoted to homework projects which do not fit into the busy weekday schedule.

A Possible Solution

Jeremy's parents want him to enjoy sports and have friends. Yet, they also want him to have the benefits of being actively raised by two parents. They want him to grow to become an adult who sees that balancing family, work, and play is important. They want to teach him how to do this.

Jeremy's parents have agreed to maintain their previous supervision plan. However, they have also agreed on some changes. Jeremy's noncustodial parent will come to the community of the custodial parent for midweek visitation. Regardless of how busy he is, Jeremy needs to eat. The noncustodial parent plans to take Jeremy to dinner at a restaurant that offers quick but healthy meals. They will spend the rest of the time at a local library where Jeremy can study. The noncustodial parent can offer help as needed or simply enjoy a good book. Jeremy's parents plan to purchase an inexpensive laptop computer to assist him when he works at the library.

Jeremy's parents plan that alternating weekends will continue to be spent with the noncustodial parent. They, like many parents of adolescents, understand Jeremy wants to be with his friends more than he wants to be with them. They recognize that, on weekends, they are offering more supervision and Jeremy's friends are getting more time. Yet, they also see the need to help Jeremy establish active family membership as one of his priorities.

D. HOLIDAY PARENTING TIME SCHEDULE

1. Conflicts Between Regular and Holiday Weekends.

The Holiday Parenting Time Schedule shall take precedence over regularly scheduled and extended parenting time. Extended parenting time takes precedence over regular parenting time unless otherwise indicated in these Guidelines.

If the non-custodial parent misses a regular weekend because it is the custodial parent's holiday, the regular alternating parenting time schedule will resume following the holiday. If the non-custodial parent receives two consecutive weekends because of a holiday, the regular alternating parenting time schedule will resume the following weekend with the custodial parent.

2. Holiday Schedule. The following parenting times are applicable in all situations referenced in these Guidelines as "scheduled holidays" with the limitations applied as indicated for children under the age of three (3) years.

A. Special Days.

[1] Mother's Day. With the child's mother from Friday at 6:00 P.M. until Sunday at 6:00 P.M.

[2] Father's Day. With the child's father from Friday at 6:00 P.M. until Sunday at 6:00 P.M.

[3] Child's Birthday. In even numbered years the non-custodial parent shall have all of the children on each child's birthday from 9:00 A.M. until 9:00 P.M. However, if the birthday falls on a school day, then from 5:00 P.M. until 8:00 P.M.

In odd numbered years the non-custodial parent shall have all of the children on each child's birthday on the day before the child's birthday from 9:00 A.M. until 9:00 P.M., however, if such day falls on a school day, then from 5:00 P.M. until 8:00 P.M.

[4] Parent's Birthday. From 9:00 A.M. until 9:00 P.M. with that parent, however, if the parent's birthday falls on a school day, then from 5:00 P.M. until 8:00 P.M.

B. Christmas Vacation.

One-half of the period which will begin at 8:00 P.M. on the evening the child is released from school and continues to December 30 at 7:00 P.M. If the parents cannot agree on the division of this period, the custodial parent shall have the first half in even-numbered years. In those years when Christmas does not fall in a parent's week, that parent shall have the child from Noon to 9:00 P.M. on Christmas Day. The winter vacation period shall apply to pre-school children and shall be determined by the vacation period of the public grade school in the custodial parent's school district.

C. Holidays.

In years ending with an even number, the non-custodial parent shall exercise the following parenting time:

[1] New Year's Eve and New Year's Day. (The date of the new year will determine odd or even year). From December 30th at 7:00 P.M. to 7:00 P.M. of the evening before school resumes.

[2] Memorial Day. From Friday at 6:00 P.M. until Monday at 7:00 P.M.

[3] Labor Day. From Friday at 6:00 P.M. until Monday at 7:00 P.M.

[4] Thanksgiving. From 6:00 P.M. on Wednesday until 7:00 P.M. on Sunday.

In years ending with an odd number, the non-custodial parent shall exercise the

following parenting time:

- [1] Spring Break. From Friday at 6:00 P.M. through Sunday of the following weekend at 7:00 P.M.
- [2] Easter. From Friday at 6:00 P.M. until Sunday at 7:00 P.M.
- [3] Fourth of July. From 6:00 P.M. on July 3rd until 10:00 A.M. on July 5th.
- [4] Halloween. On Halloween evening from 6:00 P.M. until 9:00 P.M. or at such time as coincides with the scheduled time for trick or treating in the community where the non-custodial parent resides.

3. Religious Holidays. Religious based holidays shall be considered by the parties and added to the foregoing holiday schedule when appropriate. The addition of such holidays shall not affect the Christmas vacation parenting time, however, they may affect the Christmas day and Easter parenting time

Commentary

Recognizing there are individuals of varying faiths who celebrate holidays other than those set out in the guidelines, the parties should try to work out a holiday visitation schedule that fairly divides the holidays which they celebrate over a two-year period in as equal a manner as possible.

SECTION III

PARENTING TIME WHEN DISTANCE IS A MAJOR FACTOR

Where there is a significant geographical distance between the parents, scheduling parenting time is fact sensitive and requires consideration of many factors which include: employment schedules, the costs and time of travel, the financial situation of each parent, the frequency of the parenting time and others.

1. **General Rules Applicable**. The general rules regarding parenting time as set forth in Section 1 of these guidelines shall apply.

2. **Parenting Time Schedule**. The parents shall make every effort to establish a reasonable parenting time schedule.

Commentary

When distance is a major factor, the following parenting time schedule may be helpful:

(A) Child Under 3 Years Of Age. For a child under 3 years of age, the noncustodial parent shall have the option to exercise parenting time, in the community of the custodial parent, up to two five hour periods each week. The five hour period may occur on Saturday and Sunday on alternate weekends only.

(B) Child 3 and 4 Years of Age. For a child 3 and 4 years of age, up to six (6) one week segments annually, each separated by at least (6) weeks. Including the pickup and return of the child, no segment shall exceed eight (8) days.

(C) Child 5 Years of Age and Older. For a child 5 years of age and older, seven (7) weeks of the school summer vacation period and seven (7) days of the school winter vacation plus the entire spring break, including both weekends if applicable. Such parenting time, however, shall be arranged so that the custodial parent shall have religious holidays, if celebrated, in alternate years.

3. Priority of Summer Visitation. Summer parenting time with the non-custodial parent shall take precedence over summer activities (such as Little League) when parenting time cannot be reasonably scheduled around such events. Under such circumstances, the non-custodial parent shall attempt to enroll the child in a similar activity in his or her community.

4. Extended Parenting Time Notice. The noncustodial parent shall give notice to the custodial parent of the selection by April 1 of each year. If such notice is not given, the custodial parent shall make the selection.

5. Special Notice of Availability. When the non-custodial parent is in the area where the child resides, or when the child is in the area where the non-custodial parent resides, liberal parenting time shall be allowed. The parents shall provide notice to each other, as far in advance as possible, of such parenting opportunities.

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These Guidelines shall be effective on March 31, 2001.

The Clerk of this Court is directed to forward a copy of this order to the Clerk of each Circuit Court in the State of Indiana; Attorney General of Indiana; Legislative Services Agency and its Office of Code Revision; Administrator, Supreme Court of Indiana; Administrator, Indiana Court of Appeals; Administrator, Indiana Tax Court; Public Defender of Indiana; Indiana Supreme Court Disciplinary Commission; Indiana Supreme Court Commission for Continuing Legal Education; Indiana Board of Law Examiners; Indiana Judicial Center; and Division of State Court Administration.

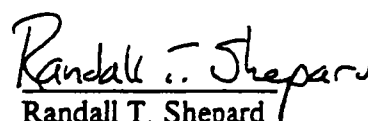
In addition, the Clerk is directed to forward a copy to Judge Daniel F. Donahue, Clark Circuit Court; the Indiana Family and Social Services Administration, Division of Family and Children and IV-D Support Divisions; Indiana State Bar Association, Family Law Section; Indiana Child Custody and Support Advisory Committee created under Ind. Code 33-2.1-10-1; the libraries of all law schools in the state; the Michie Company, and West Publishing Company.

West Publishing Company is directed to publish this order in the advance sheets of this Court.

The Clerks of the Circuit Courts are directed to bring this order to the attention of all judges within their respective counties and to post this order for examination by the Bar and general public.

Done at Indianapolis, Indiana this 22nd day of December, 2000.

FOR THE COURT


Randall T. Shepard
Chief Justice of Indiana

All Justices concur.

CIVIL RULE 7
JURY SELECTION

1. In all cases, twelve (12) prospective jurors shall be seated in the jury box to commence voir dire examination.
2. The party having the burden of proof shall conduct the first voir dire examination of any prospective juror. In cases of multiple claims and burdens of proof, the party filing the first claim in the cause shall conduct the first voir dire examination.
3. All challenges of prospective jurors then seated in the jury box shall be made at the close of each voir dire examination of any panel of prospective jurors and shall be submitted in writing by each party, simultaneously, to the Judge.
4. The Court will rule upon challenges for cause and will then receive peremptory challenges. A peremptory challenge made by a party shall count against such party's total allowed challenges, regardless of whether the other party has also made a peremptory challenge of the same prospective juror.
5. A prospective juror impanelled for voir dire examination and who is not removed either for cause or peremptorily on the first occasion for making challenges following said voir dire examination, is accepted as a juror for the trial of the cause by both parties and may not thereafter be challenged peremptorily and may be challenged for cause only if such cause is based upon information solicited after the first voir dire examination of said juror.
6. Upon the removal of any prospective jurors from the panel, additional talesmen shall be seated to replace the excused jurors and voir dire examination of the additional prospective jurors shall proceed according to these rules.

At the discretion of the Court, accepted jurors may be taken to the jury room when accepted and not participate in further voir dire.
7. In cases where only six (6) jurors are required, challenges, either for cause

or peremptory, may be made against any of the twelve (12) prospective jurors.

The first six (6) jurors remaining, after challenges, in the order that their names are drawn by the jury commissioners, shall constitute the jury to try the cause.

CIVIL RULE 8

ATTORNEY FEES

A request for an award of attorney's fees in excess of Five Hundred Dollars (\$500.00) must be supported by affidavit which shall include a statement of the amount of time that the attorney has engaged in the matter.

One form of affidavit sufficient under this Rule is set out at Appendix 2.

STATE OF INDIANA)
) S:
COUNTY OF STEUBEN)

IN THE STEUBEN SUPERIOR COURT

CASE NO. 76D01-_____

IN RE: THE MARRIAGE OF)
)
_____,)
 Petitioner)
)
and)
)
_____,)
 Respondent)

DOMESTIC RELATIONS
TEMPORARY RESTRAINING ORDER

APPLICATION

Petitioner/Respondent hereby requests that the Court issue a Temporary Restraining Order as authorized under Trial Rule 65(E) and Local Civil Rule 6 of the Steuben Superior Court.

Petitioner/Respondent

ORDER

Being duly advised, both parties to the above-captioned dissolution of marriage proceeding are notified that they are each temporarily restrained and enjoined from:

(1) Transferring, encumbering, concealing, selling or otherwise disposing of any of the joint, common or community property of the parties or sole property of either of them except the usual course of business or for the necessities of life, without the written consent of the parties or the permission of the Court.

(2) Removing any child of the parties then residing in the State of Indiana from their county of residence or adjoining county with an intent or effect to deprive the Court of jurisdiction as to said child or to deny access to said child without the prior written consent of all the parties or the permission of the Court.

This Restraining Order is automatically effective against petitioner at the time it is issued and is effective against respondent upon service of this Order.

This Temporary Restraining Order is enforceable by all remedies provided by law including contempt of Court.

This Temporary Restraining Order will remain in effect until a Decree of Dissolution is entered or until it is otherwise modified or dissolved by the Court.

Petitioner/Respondent has filed a Motion for Provisional Orders. A copy is attached. A hearing on the motion is set for the _____ day of _____, 20____, at _____ a.m./p.m. You should attend this hearing and bring with you written evidence of your average weekly income (such as pay check stubs or your last year's income tax returns). If you do not attend, the hearing will be held and provisional orders made in your absence.

Dated: _____

William C. Fee, Judge
Steuben Superior Court

Copy to:
____ Pet./Pet. Counsel
____ Resp./Resp. Counsel
____ Sheriff

Notice issued:

RJO X

APPENDIX 1

STATE OF INDIANA)
) SS:
COUNTY OF STEUBEN)

IN THE STEUBEN CIRCUIT/SUPERIOR COURT
CAUSE NO. _____

Plaintiff,)
)
-vs-)
)
Defendant.)

AFFIDAVIT IN SUPPORT
OF REQUEST FOR
AWARD OF ATTORNEY'S FEES

The undersigned, as a member of the Indiana Bar in good standing, and as petitioner herein avers:

1. That the time records kept by said petitioner show that _____ hours to date was spent in necessary legal representation of petitioner's client and the attached time record accurately reflects dates, time and type of legal service and expenses advanced herein.

(or)

(use this paragraph only if time records are unavailable)

That said petitioner has diligently searched petitioner's file and docket entries to refresh petitioner's present recollection and is able to state conservatively under oath that petitioner has spent in excess of _____ hours to date in necessary representation of petitioner's client and the following expenses were advanced, viz:

(Date)	(Item)	(Cost)
--------	--------	--------

2. That in addition, petitioner avers that of the eight factors set out in the Rules of Professional Conduct (Rule 1.5) ~~DR/2-105(B)~~, the following apply, viz:

3. That in petitioner's professional judgment the reasonable value of services and reimbursements rendered herein to date by petitioner are in the sum of \$_____.

4. That other items that the Court should consider in entering a judgment for fees herein include:

APPENDIX 2

(Date)

(Item)

(Cost or Value)

5. Petitioner now tenders said affidavit, subject to cross examination, and solemnly affirms under penalties for perjury that the foregoing representations and statements are true and correct.

Dated at Angola, Indiana, on this _____ day of _____, 19__.

Petitioner

Address: _____

Telephone: _____

Certificate of Service

ACCESS AND COMPANIONSHIP SCHEDULE

STEBEN CIRCUIT COURT and STEBEN SUPERIOR COURT

Access and companionship between children and their non-custodial parents allows for the building and maintaining of relationships essential to the healthy emotional growth of a child. Liberal access and companionship arrangements are encouraged. It is always in the best interest of children that their parents put aside their personal feelings and work together in a spirit of cooperation that will provide meaningful access and companionship between children and both parents. The Court encourages parents to try to agree on an access and companionship schedule that is in the best interest of their children and that best fits their own family schedules. It is in those cases where parents cannot agree on appropriate access and companionship that the following schedule shall apply.

Whenever a Dissolution Decree provides for access, companionship or visitation with children at reasonable times and places or uses language of similar intent or when no other more specific access, companionship and visitation schedule is set forth in a Dissolution Decree, the following Access And Companionship Schedule shall apply:

Access and companionship by the non-custodial parent with the parties' minor children shall be as follows:

1. AT SUCH TIMES AND PLACES AS THE PARTIES MAY AGREE.
2. Weekends: Alternate weekends from Friday at 7:00 P.M. until Sunday at 7:00 P.M.
3. Holidays: In the odd-numbered years, mother has July 4th, Thanksgiving and Christmas Eve and, father has Easter, Memorial Day, Labor Day and Christmas Day. In the even-numbered years, the schedules are reversed.
 - (a) A holiday that falls on a weekend should be spent with the parent who is supposed to have the children for that holiday. The rest of the weekend is to be spent with the parent who would normally have that weekend. These do not have to be made up.
 - (b) 48-hour notice should be given by the non-custodial parent to the custodial parent of intentions about the holidays.
 - (c) Mother's Day and Father's Day are to be spent with the appropriate parent. Hours are as agreed or from 9:00 A.M. until 7:00 P.M.
 - (d) Other days of special meaning to the parties or children should be agreed upon by the parties and alternated as above.

APPENDIX 3

- (e) When parents cannot agree upon hours for access and companionship, the hours shall be as follows: Easter (8 A.M. - 7 P.M.); Memorial Day (9 A.M. - 9 A.M. the next day, not to interfere with school); July 4th (9 A.M. - 9 A.M. the next day); Labor Day (9 A.M. - 9 A.M. the next day, not to interfere with school); Thanksgiving (9 A.M. - 9 A.M. the Saturday after Thanksgiving); Christmas Eve (9 P.M. December 23rd - 9 P.M. December 24th); Christmas Day (9 P.M. December 24th - 9 P.M. December 25th).
- 4. Birthdays: The child shall celebrate his/her birthday in the home of the custodial parent, unless it falls on a visitation day. The other parent may celebrate at another time if desired.
- 5. Waiting: The children and custodial parent have no duty to await the non-custodial parent for more than 30 minutes after the access and companionship time. A parent who is late, and has failed to give notice of the delay to the custodial parent, forfeits access and companionship for that period.
- 6. Illness: If a child is ill, the custodial parent should give 24-hour notice, if possible, so appropriate plans can be made. If the non-custodial parent is ill, he or she should also give 24-hour notice to cancel. Minor illnesses such as colds and flu, even when indoor rest and inactivity is necessary, should not prohibit access and companionship. The non-custodial parent is capable of caring for the ill child and the ill child should have the opportunity to receive care from the non-custodial parent.
- 7. Vacation: Four (4) weeks of access and companionship each year, when possible, should be arranged during the school summer vacation. The non-custodial parent shall give 60-day advance notice of such access and companionship. Certain factors such as league recreation schedules and summer school sometimes do not allow for a 4-week period of access and companionship without extreme disappointment to the child. The Court cannot anticipate all of these things in advance and must rely on the parents to cooperate with each other in the best interests of the children in these matters. The custodial parent shall give the non-custodial parent 60-day notice of vacations or special plans for the child in order to avoid planning conflicts.
 - (a) Alternate weekends or holidays which normally would be spent with the custodial parent and that fall during the non-custodial parent's vacation must be given to the custodial parent or made up at another time. Alternate weekends or holidays which normally would be spent with the non-custodial parent, and that fall during the

custodial parent's vacation, must be given to the non-custodial parent or made up at another time. Holidays and alternate weekends that are to be made up must be given/taken within 3 months.

(b) A general itinerary should be provided for either the custodial or non-custodial parent when the children are to be taken out-of-town on vacation.

8. Failure To Appear: Whenever a non-custodial parent fails to appear for access and companionship with minor children at a scheduled time without providing advance notice to the custodial parent of the inability to have scheduled access and companionship, the non-custodial parent must then give the custodial parent at least 72-hours notice of intent to exercise the next access and companionship time.
9. Address And Telephone: Each parent shall provide the other parent with their home address and telephone number and with the address and telephone number at any other residence where the parties' minor children may regularly reside.

ORDERED this _____ day of _____, 1989.

Dane L. Tubergen, Judge
Steuben Circuit Court

William C. Fee, Judge
Steuben Superior Court

BASIC PRINCIPLES CONCERNING ACCESS AND COMPANIONSHIP

1. Each child has the right to develop and maintain an independent relationship with each parent.
2. Each child has the right to be free of the conflict between the parents.
3. Each child has the right to be free from having to take over the parental responsibility for making custody/visitation decisions.
4. Each child has the right to be free from having to take sides with, defend or downgrade either parent.
5. Each child has the right to be guided, taught, supervised, disciplined and nurtured by each parent, without interference from the other parent.
6. Each child has the right to be financially supported by both parents, regardless of how much time each parent spends with the child.
7. Each child has the right to spend time with each parent, regardless of whether or not financial support is given.
8. Each child has the right to a personal sleeping area and space for possessions in each parent's home.
9. Each child has the right to be physically safe and adequately supervised when in the care of each parent.
10. Each child has the right to a stable, consistent and responsible child care arrangement when not supervised by the parents.
11. Each child has the right to develop and maintain meaningful relationships with other significant adults, (i.e. grandparents, stepparents and other relatives) as long as these relationships do not interfere with or replace the child's primary relationship with the parents.
12. Each child has the right to expect that both parents will follow through with the child care plan, honoring specific commitments for scheduled time with the child.
13. Each child has the right to both parents being informed about medical, dental, educational and legal matters concerning the child, unless such disclosure would prove harmful to the child.
14. Each child with special needs (developmental, mental, emotional and physical) has the right to appropriate consideration and adaptation in any child care plan.
15. Each child has the right to participate in age appropriate activities so long as these activities do not significantly impair the relationship between the child and either parent.

IN RE: _____ Petitioner

IN THE STEUBEN CIRCUIT/SUPERIOR COURT

_____ Social Security No.

Cause No. _____

and

_____ Respondent

_____ Social Security No.

WORKSHEET—CHILD SUPPORT OBLIGATION			
Children	DOB	Children	DOB
		FATHER	MOTHER
1. WEEKLY GROSS INCOME			
A. Minus Child Support—Court Order			
B. Minus Child Support—Legal Duty			
C. Minus Health Ins. Prem. for Child Only			
D. Minus Maintenance Paid			
2. WEEKLY AVAILABLE INCOME			
3. PERCENTAGE SHARE OF INCOME (Line 2, Each Parent's Weekly Available Income divided by Combined Weekly Available Income)		%	%
4. BASIC CHILD SUPPORT OBLIGATION (Apply Line 2 to Child Support Schedule)			
A. Plus Work-Related Child Care Costs			
B. Plus Extraordinary Healthcare Expenses (Uninsured only)			
C. Plus Extraordinary Education Expense (Agreed or ordered by Court)			
5. TOTAL CHILD SUPPORT OBLIGATION (Add Line 4, plus 4 A, B, and C)			
6. EACH PARENT'S CHILD SUPPORT OBLIGATION (Multiply Line 3 times Line 5 for each parent) (State exceptions and at-			

I affirm, under the penalties for perjury, that the foregoing representations are true.

DATE: _____

_____ Petitioner

APPROVED: _____
Attorney for Petitioner

_____ Respondent

Attorney for Respondent

CRIMINAL RULE 1

FILING AND TRANSFER OF CRIMINAL CHARGES

- (A) All cases denominated as Class A, B, or C felony shall be filed in the Steuben Circuit Court.
- (B) All cases denominated as Class D felonies and misdemeanors shall be filed in Steuben Superior Court.
- (C) Whenever a new charge is filed against a person on probation in this county, that charge shall be filed in the Court exercising probation jurisdiction over that person. If the charge is not so filed, it shall be subject to transfer upon discretion of the presiding Judge exercising probation jurisdiction.
- (D) Whenever multiple charges exist against a single person in both Circuit and Superior Courts that have not been consolidated in one Court pursuant to the requirements of preceeding Paragraph (A), then all charges shall be transferred to the Court wherein the most serious charge is pending.

CRIMINAL RULES

CRIMINAL RULE 2

APPEARANCE

Defendant shall appear in person, and by counsel if counsel has appeared, at the initial hearing in felony and misdemeanor cases.

A Defendant appearing with counsel may waive the initial hearing by written Waiver signed by Defendant and counsel in a misdemeanor case.

CRIMINAL RULE 3

WITHDRAWAL OF APPEARANCE

In all criminal cases, withdrawal of representation of Defendant shall be in accordance with the provisions of I.C. 35-36-8-2 and may not be granted except upon a hearing conducted in open court, on the record, and in the presence of the Defendant. Withdrawal of Appearance may be allowed without compliance with the requirement of this rule if the reason for withdrawal is the inability to locate or communicate with the Defendant. In such event, a warrant shall forthwith issue for the arrest of the Defendant.

A Withdrawal of Appearance when accompanied by the Appearance of other counsel shall also constitute a waiver of the foregoing requirement.

CRIMINAL RULE 4

CHANGE OF PLEA

No Change of Plea, other than "without recommendation", shall be accepted unless presented to the Court ten (10) days prior to trial. The Court shall not waive this requirement except upon a showing of extreme prejudice.

In the event that the defendant elects to enter a change of plea less than ten (10) days prior to trial, then the court may assess actual jury costs associated with said untimely change of plea to the defendant upon sentencing.

CRIMINAL RULE 5

DISCOVERY

In all criminal causes before the Court by Indictment or Information, the State of Indiana and the Defendant shall comply with the terms of a standing Discovery Order, attached hereto and made a part of this Rule as Appendix 4, when the said Order is envoked by the Court by docket entry.

CRIMINAL RULE 6

JURY SELECTION

Jury selection in criminal cases shall proceed in the same manner as stated in Civil Rule 7.

CRIMINAL RULE 7

BAIL POLICIES AND SCHEDULE

1. This rule supercedes all prior bail orders and schedules of the Steuben Circuit Court and the Steuben Superior Court.
2. This rule shall apply to all persons charged with felonies or misdemeanors in the Steuben Circuit Court or Steuben Superior Court.
3. All persons charged with a criminal offense, other than murder, in Steuben County, Indiana, shall be admitted to bail in an amount fixed by the Court and endorsed upon the warrant of arrest.
4. Persons entitled to bail may be admitted to bail by:
 - (a) Executing a bail bond with sufficient solvent sureties as required by I.C. 35-33-8; or,
 - (b) Depositing cash or securities in an amount equal to the bail; or,
 - (c) Executing a bond secured by real estate in Steuben County, Indiana, where the true cash value as determined by the County Assessor for property tax purposes, less encumbrances, is at least equal to the amount of the bail and as approved by the Court; or,
 - (d) Providing any other bond or surety as may be approved by the Court.
5. Notwithstanding the provisions of Paragraph 4(a)-(d); except where restriction is endorsed on the warrant, a Defendant may be admitted to bail by executing a Personal Appearance Bond With Ten Percent Cash Deposit surety agreement attached to this rule as Appendix 5, and depositing with the County Clerk cash equal to ten percent (10%) of the aggregate bail or Fifty Dollars (\$50.00), whichever is greater; provided, however, that said provision is authorized only when:

- (a) The Defendant is a resident of the State of Indiana.
- (b) The Defendant is charged with a Class C Felony or any lesser felony or misdemeanor;
- (c) The Defendant has no prior conviction for a felony known to the detaining officer;
- (d) The Defendant is not charged with a crime of violence involving personal injury; and,
- (e) As granted or denied by order of the Court.

The Clerk shall retain from a deposit in all such cases an administrative fee in an amount equal to ten percent (10%) of the monetary value of the deposit or Fifty Dollars (\$50.00), whichever is less.

6. In any case where cash bail has been posted pursuant to paragraph 4(b) or a ten percent (10%) deposit made pursuant to paragraph 5:

- (a) The cash bail or ten percent (10%) deposit shall be posted by the Defendant only and in the Defendant's name only and shall be considered a personal asset of the Defendant.
- (b) Said cash bail or ten percent (10%) deposit, after final Court order and judgment in the cause, and deduction of the administrative fee, shall be applied to payment of court costs, fine, restitution, probation fees or any other ordered sums of money. The balance remaining shall be released to the Defendant.
- (c) The sheriff shall advise any individual seeking to post bail of the above stated conditions; however, failure to so advise any individual shall not constitute a waiver of these conditions.

7. Individuals arrested without a warrant for a Class D Felony or misdemeanor may post bail according to this rule and the bail schedule set out below without

being first brought before the Court, unless the individual is arrested for the offense of Battery. Individuals arrested without a warrant who are unable to post bail according to schedule shall be brought before the Court no later than the day of arrest, if the Court is in session, or the next day the Court is in session following arrest.

8. No individual arrested while intoxicated shall be released or brought before the Court until sober.
9. Juveniles (individuals under 18 years of age), shall not be incarcerated except upon approval of the Steuben County Probation Department or Order of the Steuben Circuit or Superior Court.
10. The following bail schedule determines presumptively reasonable bail that shall be imposed pursuant to paragraph 7 above. This bail schedule is superseded by bail endorsed upon a warrant or otherwise set by order of the Court.

<u>MURDER</u>	not bailable
<u>CLASS A FELONY</u>	\$30,000.00
<u>CLASS B FELONY</u>	\$10,000.00
<u>CLASS C FELONY</u>	\$ 5,000.00
<u>CLASS D FELONY</u>	\$ 3,000.00
<u>CLASS A MISDEMEANOR</u>	\$ 1,000.00
<u>CLASS B MISDEMEANOR</u>	\$ 500.00
<u>CLASS C MISDEMEANOR</u>	\$ 500.00

IN THE STEUBEN CIRCUIT/SUPERIOR COURT
CAUSE NO.

STATE OF INDIANA)
)
 -VS-)
)
)
)

The Court on its own motion now orders the State of Indiana to produce the following material and information within its possession or control to the Defendant within twenty (20) days of the above date:

- (1) The names, addresses and telephone numbers (if known) of all persons whom the State intends to call as witnesses; together with their relevant written or recorded statements (or transcripts thereof) made in connection with the above entitled case. Transcripts of Grand Jury testimony shall be paid for by the party requesting the transcripts.
- (2) Any written or recorded statements and the substance, in writing, of any oral statements made by the accused or by a co-defendant, including a list of witnesses to the making and acknowledgement of such statements.
- (3) A copy of all police reports and any reports or statements of experts made as a result of any scientific tests, experiments or comparisons made in connection with this case.
- (4) A copy of the criminal record of the Defendant; including a copy of the traffic record if any part of the prosecution is for a traffic offense.
- (5) A list (including a brief description) of all books, papers, documents, photographs, items of personal evidence or other tangible objects which the State intends to use at trial or which were obtained from or belong to the Defendant. Upon request of the Defendant, the State shall make arrangements convenient to the parties for the inspection, copying, and photographing of any such evidence. Such arrangements shall be made expeditiously.
- (6) All evidence of any nature whatsoever which would tend to exculpate the Defendant in this case.
- (7) To inform the defense whether or not evidence was acquired by governmental officials or their agents acting directly or indirectly as a result of the execution of any process, and if such has occurred, the the State is ordered to produce for the defense a copy of said process.

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- (8) To disclose whether or not photographs of Defendant were reviewed by any witness for identification purposes and to disclose the time, date, place and persons present at such viewing and to produce all photographs used whether of Defendant or other persons.

The Court further orders that the Defendant, subject to constitutional limitations, produce the following material and information within its possession or control to the State of Indiana within twenty (20) days of the filing of the State's answer to this discovery order:

- (1) The names, addresses and telephone numbers (if known) of all persons whom the Defendant intends to call as witnesses; together with their relevant written or recorded statements (or transcripts thereof) made in connection with the above entitled case.
- (2) A list (including a brief description) of all books, papers, documents, photographs, items of physical evidence or other tangible objects which the Defendant intends to use at trial. Upon request of the State, the Defendant shall make arrangements convenient to the parties for the inspection, copying and photographing of any such evidence. Such arrangements shall be made expeditiously.
- (3) A statement of the defenses and of the legal theory of any defenses which the Defendant intends to use at any hearing or trial in this case.
- (4) Any reports or statements of experts made as a result of any scientific tests, experiments or comparisons made in connection with this case and the results of any physical or mental examinations of the Defendant that the Defendant intends to introduce as evidence in the trial of this cause.
- (5) Upon written request of the State, arrangements convenient to the parties shall be made requiring the Defendant to:
 - (a) Speak for identification by witnesses to the crime charged in this case;
 - (b) Be fingerprinted;
 - (c) Appear in a "line-up";
 - (d) Pose for photographs not involving reenactment of the crime;
 - (e) Try on articles of clothing in the possession of the State;
 - (f) Permit the taking of samples of blood, hair, urine or other bodily substances in a manner which will not involve an unreasonable intrusion into his/her body;
 - (g) Provide a handwriting sample on forms prescribed for such purpose by the Questioned Documents Section of the Indiana State Police; and,
 - (h) Submit to a reasonable physical or medical inspection of his body.

Such arrangements shall be made expeditiously.

Any objections to this order (including a legal memorandum) shall be filed in writing within ten (10) days of this date or shall be deemed waived.

The obligations and responsibilities under this order shall continue throughout the proceedings and until final disposition of the case. Not less than ten (10) days before any trial setting the case shall be reviewed by the respective parties; and an amended answer, if appropriate, be filed with opposing counsel within seven (7) days of the trial date.

Discovery material furnished pursuant to this order shall not be filed with the Court. However, counsel for the parties or the Defendant (if not represented by counsel) shall certify to the Court, in writing, within the time limits prescribed that this order has been complied with. Copies of the certification shall be furnished to opposing counsel (or Defendant, if unrepresented by counsel) and any objections to the certification shall be filed within ten (10) days of the date the certification is filed with the Court.

The parties shall have a continuing obligation to assist the Court in the enforcement of this order. If a response to the order is not filed in a timely manner, then the opposing party shall file an appropriate motion within five (5) days of the failure seeking sanctions or any other appropriate remedy. If such a pleading is not filed by the party getting the benefit of a discovery response, then the failure to file shall be deemed a waiver of any right to a continuance allegedly necessary for preparation for any hearing or trial of this case.

Failure to comply with this order may be enforced by contempt on the Court's own motion or the motion of any party.

Dated: _____

Judge, Steuben Circuit Court

Judge, Steuben Superior Court

IN THE STEUBEN CIRCUIT/SUPERIOR COURT
CAUSE NO.

PERSONAL APPEARANCE BOND WITH TEN PERCENT CASH DEPOSIT

- (a) I will not leave the State of Indiana without the written permission of the Court;
- (b) I will inform my attorney, or the Court if I have no attorney, of any change of address or employment within 24 hours of such change;
- (c) I will personally appear in this cause in the Steuben Circuit/Superior Court whenever my appearance is required by the Court. Notice by the Court to my attorney of record shall constitute notice to me as though served personally. If I am not represented by an attorney, then notice will be mailed to the address below my signature; and,

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(d) I agree to comply with all other conditions of release as ordered by the Court.

When the conditions of the bond have been performed, the Clerk of the Court shall return to me, unless the Court orders otherwise, ninety percent (90%) of the sum which has been deposited and shall retain as administrative fee 10% of the amount deposited or Fifty Dollars (\$50.00), whichever is less.

If a judgment for a fine and costs is entered in this cause, or if the Court orders that I pay an initial probation user's fee, restitution, or any other sum, the balance of the deposit after deduction of the administrative fee may be applied by the Court Clerk to the payment of the judgment, initial probation user's fee, restitution or other sum.

I understand the terms of this agreement and voluntarily enter into it.

Dated: _____.

(Signature of Defendant)

(Telephone Number)

(PRINT Name of Defendant)

(Head of household at above residence if other than Defendant)

(Street, Rural Route and Box Number)

(City, State and Zip Code)

Execute two (2) copies:

Copy to Court
Copy to Sheriff

SMALL CLAIMS RULES

SMALL CLAIMS RULE 1

SERVICE AND APPEARANCE

1. Upon failure to obtain adequate service over a party, the party seeking to obtain service shall be granted sixty (60) days to perfect service or the cause shall be dismissed without prejudice.
2. Upon a party's failure to appear for a proceedings supplemental hearing, the non-appearing party shall be subject to a Rule to Show Cause hearing to determine whether a contempt citation should issue for the party's failure to appear.
3. Upon motion, bail for a body attachment may be set in cash for the amount of judgment, if the judgment is \$1,000.00 or less. Bail so posted shall be held by the Clerk, pending further order.
4. If any party is unable to meet the bail endorsed upon the body attachment, they shall be brought before the Court without delay for a Rule to Show Cause hearing, at which the moving party shall appear.

SMALL CLAIMS RULE 2

TRIAL DATE

All small claims filings shall initially be set for trial at a time when there is insufficient time available to hear a contested matter. Upon entry of appearance by Defendant's counsel, filing of responsive pleading or counter-claim, or oral motion for contested hearing, the cause shall be set for the next available contested trial date.

SMALL CLAIMS RULE 3

COLLECTION

1. No proceedings supplemental shall be accepted for filing by the Clerk less than ten (10) days from the date of judgment, without leave of Court.
2. The redocketing fee for proceedings supplemental shall be assessed each time a new garnishee defendant is sent interrogatories. A new motion for proceedings supplemental shall be filed in such circumstances.

INFRACTION RULE 1
TRAFFIC VIOLATIONS BUREAU

1. By court order, a Traffic Violations Bureau for the Steuben Superior Court is now established and the Clerk of the Steuben Superior Court is appointed as Violations Clerk to administer the Traffic Violations Bureau, pursuant to I.C. 34-4-32-5. The dispatcher on duty at every law enforcement unit within Steuben County is appointed as a Deputy Violations Clerk charged with all the duties of a Violations Clerk under I.C. 34-4-32-5.
2. There is now established a schedule of fines for traffic and conservation violations within the authority of the Violations Clerk and the same shall be prominently posted in the Traffic Violations Clerk's office.
3. Pursuant to I.C. 34-4-32.5-1, a non-resident of Indiana may be required to post a security deposit and the Court now sets forth a schedule for those offenses and the same shall be prominently posted in the Traffic Violations Clerk's office.

INFRACTION RULE 2

INFRACTION JUDGMENTS

1. If the Defendant fails to appear after having been provided notice of the initial appearance date, the Court shall notify the Clerk of the Defendant's failure to appear and direct the Clerk to serve the Defendant with Notice To Appear within thirty (30) days. Upon failure of Defendant to appear before the Violations Bureau or pay the scheduled fine and costs within thirty (30) days, the Clerk shall certify to the Bureau of Motor Vehicles that the Defendant has failed to appear.
2. If the Defendant fails to appear for trial after filing an appearance and receiving Notice of the trial date, a default traffic judgment may be entered against the Defendant and the Clerk shall be directed to notify Defendant of same and request payment within thirty (30) days.
3. If a Defendant fails to pay a traffic judgment entered by the Court, the Clerk shall certify to the Bureau of Motor Vehicles the judgment, that Defendant has failed to pay the judgment and, that Defendant's driving privileges are suspended pursuant to I.C. 34-4-32-4 until payment.
4. Collection of infraction judgments may be sought through levy of execution, proceedings supplemental or any method appropriate to the collection of civil judgments.
5. All judgments levied by the Court shall be payable in cash, money order, or law firm check.